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Provisional agenda, annotations thereto and scheduling of meetings of the thirty-fifth session

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II. Annotations

1. Opening of the session

The thirty-fifth session will be held at the United Nations Headquarters in New York from 17 to 28 June 2002. The session will be opened on Monday, 17 June 2002, at 10.30 a.m. As from 17 June 2002, the United Nations Commission on International Trade Law will be composed of the following member States: Argentina (which alternates annually with Uruguay), Austria, Benin, Brazil, Burkina Faso, Cameroon, Canada, China, Colombia, Fiji, France, Germany, Honduras, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Lithuania, Mexico, Morocco, Paraguay, Romania, Russian Federation, Rwanda, Sierra Leone, Singapore, Spain, Sudan, Sweden, Thailand, the former Yugoslav Republic of Macedonia, Uganda, United Kingdom of Great Britain and Northern Ireland, and United States of America.

In addition, States not members of the Commission, as well as invited international organizations, may attend as observers. In accordance with the established practice, invited observers may participate in the deliberations and formulation of decisions, which are adopted by consensus.

2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

4. Draft UNCITRAL Model Law on International Commercial Conciliation

The Commission at its thirty-second session in 1999 entrusted Working Group II (Arbitration and Conciliation) with the preparation of model legislation on conciliation.[1] In addition, the Working Group was charged with the preparation of uniform rules on the requirement of written form for the arbitration agreement and on interim measures of protection in international commercial arbitration.[2]

As to model legislation on conciliation, the Working Group dealt with this topic at its thirty-second session (20-31 March 2000, report: A/CN.9/468), thirty-third session (20 November – 1 December 2000, report: A/CN.9/485), thirty-fourth session (21 May – 1 June 2001, report: A/CN.9/487) and completed its work at its thirty-fifth session (19-30 November 2001, report: A/CN.9/506) by formulating the draft UNCITRAL Model Law on International Commercial Conciliation. The report of the thirty-fifth session with the text of the draft Model Law (A/CN.9/506) will be before the current session of the Commission. The draft Model Law was circulated to Governments for comments and the comments received by the Secretariat have

been compiled in document A/CN.9/513 and addenda, which will also be before the Commission at the current session. The Commission, in line with the expectation expressed at its thirty-fourth session in 2002,[3] may wish to review and adopt the draft Model Law at its current session. (For the allocation of time to this agenda item, see the notes below on the scheduling of meetings at the current session.)

As to its work on the requirement of written form for the arbitration agreement and on interim measures of protection, the Working Group, at its thirty-sixth session (New York, 4-8 March 2002), considered a draft of an amendment of article 7 of the UNCITRAL Model Law on International Commercial Arbitration, considered steps to be taken regarding the requirement of written form as contained in article II of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) and considered model legislative provisions on arbitral-tribunal ordered interim measures of protection. At the current session, the Commission will have before it the report of that session (A/CN.9/508).

5. Insolvency law

At its thirty-fourth session in 2001, the Commission took note with satisfaction of the report of a Colloquium, held in cooperation with the International Bar Association (Committee J) and the International Federation of Insolvency Practitioners (INSOL), and commended the work accomplished so far.[4] At that session, the Commission also confirmed that the mandate given to the Working Group should be interpreted widely so as to ensure an appropriately flexible work product, which should take the form of a legislative guide.[5]

At the current session, the Commission will have before it the reports of the twenty-fourth, twenty-fifth and twenty-sixth sessions of Working Group V (Insolvency Law) (A/CN.9/504, A/CN.9/507 and A/CN.9/511) and the report on the Fourth UNCITRAL/INSOL Judicial Colloquium on Cross-Border Insolvency, 2001 (A/CN.9/518).

6. Security interests

At its thirty-fourth session in 2001, the Commission established Working Group VI (Security Interests) and entrusted it with the task of developing "an efficient legal regime for security in goods involved in a commercial activity, including inventory, to identify the issues to be addressed, such as the form of the instrument, the exact scope of assets that can serve as collateral, the perfection of security, the degree of formalities to be complied with, the need for an efficient and well-balanced enforcement regime, the scope of the debt that may be secured, means of publicizing the existence of security rights, limitations if any, on the creditors entitled to the security right, the effect of the bankruptcy on the enforcement of security right and the certainty and predictability of the creditor's priority over competing interests." [6]

At that session, the Commission emphasized the importance of the project and recommended that a two- or three-day colloquium be held with a view to obtaining input from practitioners and organizations with expertise in the area.[7] The results of the colloquium, held in cooperation with the Commercial Finance Association in Vienna from 20 to 22 March 2002, will be summarized in a

document presented to the Working Group on Security Interests (A/CN.9/WG.VI./WP.3).

At the current session, the Commission will have before it the report of the first session of the Working Group (A/CN.9/512).

7. Electronic commerce

At its thirty-fourth session in 2001, the Commission entrusted Working Group IV (Electronic Commerce) with the task of preparing an international instrument dealing with issues of electronic contracting.[8]

At the current session, the Commission will have before it the report of the thirty-ninth session (first session devoted to this topic) of the Working Group (A/CN.9/509).

8. Transport law

At its thirty-fourth session in 2001, the Commission established Working Group III (Transport Law) and entrusted it with the task of preparing a legislative instrument on issues, such as the scope of application, the period of responsibility of the carrier, obligations of the carrier, liability of the carrier, obligations of the shipper and, transport documents, in close co-operation with interested international organizations.[9]

At the current session, the Commission will have before it the report of the ninth session (first session devoted to this topic) of the Working Group (A/CN.9/510).

9. Privately financed infrastructure projects

At its thirty-fourth session in 2001, the Commission established Working Group I (Privately Financed Infrastructure Projects) and entrusted it with the task of drafting core model legislative provisions in the field of privately financed infrastructure projects.[10]

At the current session, the Commission will have before it the report of the fourth session (the first devoted to this topic) of the Working Group (A/CN.9/505).

10. Monitoring implementation of the 1958 New York Convention

At its twenty-eighth session, in 1995, the Commission approved the project, undertaken jointly with Committee D of IBA, aimed at monitoring the legislative implementation of the 1958 New York Convention.[11] Stressing that the purpose of the project was not to monitor individual court decisions applying the Convention, the Commission called upon the States parties to the Convention to send to the Secretariat the laws dealing with the recognition and enforcement of foreign arbitral awards. As of 18 March 2002, the Secretariat had received fifty-nine replies to a questionnaire that had been sent to the States parties to the Convention relating to its legislative implementation. The Secretariat will present an oral progress report to the Commission.

11. Enlargement of membership of the Commission

The Commission at its thirty-fourth session in 2001 recommended that the General Assembly approve an increase of the membership of the Commission.[12] The General Assembly, by its decision 56/422 of 12 December 2001, decided to defer further consideration of and a decision on the enlargement of the Commission to its fifty-seventh session under the item entitled "Report of the UNCITRAL on the work of its thirty-fifth session". The Commission may wish to note this decision and formulate a recommendation to the General Assembly.

12. Case law on UNCITRAL texts (CLOUT)

Pursuant to a decision by the Commission at its twenty-first session, in 1988, the Secretariat established a system for collecting and disseminating information on court decisions and arbitral awards relating to normative texts emanating from the work of the Commission.[13] The system relies on national correspondents designated by States that have become parties to an UNCITRAL convention or that have enacted legislation based on an UNCITRAL model law. Sixty-seven such States have designated national correspondents. The features of that system are explained in the User Guide (A/CN.9/SER.C/GUIDE/1/Rev.1). Abstracts of court decisions relating to the United Nations Convention on Contracts for the International Sale of Goods ("the United Nations Sales Convention"), the United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) and the UNCITRAL Model Law on International Commercial Arbitration are contained in documents A/CN.9/SER.C/ABSTRACTS/1–36. A thesaurus of the United Nations Sales Convention and an index of cases applying the Convention are contained in documents A/CN.9/SER.C/INDEX/1 and A/CN.9/SER.C/INDEX/2/Rev.2, respectively. A draft thesaurus of the UNCITRAL Model Law on International Commercial Arbitration has been circulated to National Correspondents for their comments and will be published and placed on the UNCITRAL Web site in due course.

13. Digest of case law on the United Nations Sales Convention

The Commission at its thirty-fourth session in 2001 considered ways in which it could strengthen its role in promoting the uniform interpretation of the texts resulting from its work, in particular the United Nations Convention on Contracts for the International Sale of Goods and possibly other texts such as the UNCITRAL Model Law on International Commercial Arbitration.[14] In the light of the fact that divergences in the interpretation of the Convention have been noted and that appropriate advice and guidance would be useful to foster a more uniform interpretation, the Commission requested the Secretariat to draft a digest of case law interpreting the Convention and in doing so to avail itself of the help of the network of national correspondents.[15] It is envisaged that the results of that work of the Secretariat and the national correspondents will be contained in a new series of documents (A/CN.9/SER.C/DIGEST) initially focussing on the United Nations Sales Convention. The Secretariat will present a progress report on that work.

14. Training and technical assistance

The Commission will have before it a note by the Secretariat on training and technical assistance (A/CN.9/494).

15. Status and promotion of UNCITRAL legal texts

The Commission will have before it a note by the Secretariat concerning the present status of the conventions and model laws resulting from its work and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (A/CN.9/516).

16. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolutions 56/79 on the report of the Commission on the work of its thirty-fourth session, 56/80 on the UNCITRAL Model Law on Electronic Signatures, and 56/81 on the United Nations Convention on the Assignment of Receivables in International Trade. Copies of the resolutions and the report of the Sixth Committee (A/56/588 and Corr.1) will be made available at the current session of the Commission.

17. Coordination and cooperation

Representatives of international organizations will be given an opportunity to apprise the Commission of their current activities and possible means of strengthening cooperation.

18. Other business

An oral report will be presented on the Ninth Annual Willem C. Vis International Commercial Arbitration Moot competition.

In addition, an oral report will be presented on the development and use of the UNCITRAL website (http://www.uncitral.org).

Moreover, the Commission will have before it a bibliography of recent writings related to its work (A/CN.9/517).

19. Date and place of future meetings

Thirty-sixth session of the Commission

The thirty-sixth session of the Commission will be held in Vienna. Arrangements have been made for the session to be held for up to three weeks, from 30 June to 18 July 2003.

Future sessions of Working Group I (Privately Financed Infrastructure Projects):

The fifth session of Working Group I (Privately Financed Infrastructure Projects) could be held in Vienna from 9 to 13 September 2002. Information regarding dates available for the sixth session in 2003 will be supplied by the Secretariat.

Future sessions of Working Group II (Arbitration)

The thirty-seventh session of Working Group II (Arbitration) could be held in Vienna from 7 to 11 October 2002 and the thirty-eighth session could be arranged to be held in New York from 28 April to 2 May 2003.

Future sessions of Working Group III (Transport Law)

The tenth session of Working Group III (Transport Law) could be held in Vienna from 16 to 20 September 2002. Information regarding dates available for the eleventh session in 2003 will be supplied by the Secretariat.

Future sessions of Working Group IV (Electronic Commerce)

The fortieth session of Working Group IV (Electronic Commerce) could be held in Vienna from 14 to 18 October 2002 and the forty-first session could be arranged to be held in New York from 5 to 9 May 2003.

Future sessions of Working Group V (Insolvency Law)

The twenty-seventh session of Working Group V (Insolvency Law) could be held in Vienna from 9 to 13 December 2002 and the twenty-eighth session could be arranged to be held in New York from 24 to 28 February 2003.

Future sessions of Working Group VI (Security Interests)

The second session of Working Group VI (Security Interests) could be held in Vienna from 16 to 20 December 2002 and the third session could be arranged to be held in New York from 3 to 7 March 2003.

20. Adoption of the report of the Commission

The General Assembly, in its resolution 2205 (XXI) of 17 December 1966, decided that the Commission should submit an annual report to it and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comment. Pursuant to a decision of the Sixth Committee (A/7408, para. 3), the report of the Commission is introduced to the Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

III. Scheduling of meetings and documentation

The Commission will have 10 working days to consider the agenda items.

The Secretariat recommends that, after the agenda items 1 to 3, the Commission take up agenda item 4 (draft UNCITRAL Model Law on International Commercial Conciliation) and that 6 or maximum 7 working days (from Monday morning, 17 June, to Monday or Tuesday, 24 or 25 June) be devoted to the consideration and finalization of the substance of the draft Model Law. The period from Tuesday or Wednesday (25 or 26 June) to Friday (28 June) may be devoted to the consideration of agenda items 5 through 20.

It should be noted that the draft report will be presented to the Commission for adoption at the last meeting of the session on Friday afternoon, 28 June. The draft report will reflect the Commission's deliberations held up to Thursday evening, 27 June. If the Commission wishes to hold discussions on Friday morning, 28 June, those discussions will not be reflected in the draft report, because the Secretariat would not have enough time to prepare it in the six official United Nations languages.

Furthermore, it should be noted that the above recommendations on the scheduling of agenda items are intended to assist States and interested organizations in planning the attendance of their pertinent representatives; the actual scheduling will be determined by the Commission itself.

Meetings will be held from 10.00 to 13.00 and from 15.00 to 18.00, except on Monday, 17 June, when the morning meeting will commence at 10.30.

Documentation for the session of the Commission referred to in this provisional agenda may also be found on the UNCITRAL website (www.uncitral.org).

Notes

[1] *Official Records of the General Assembly, Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 343 and 380.

[2] Ibid., paras. 350, 373 and 380.

[3] Ibid., *Fifty-sixth Session, Supplement No. 17*, (A/56/17), para. 315.

[4] Ibid., para. 302.

[5] Ibid., para. 308.

[6] Ibid., para. 358.

[7] Ibid., para. 359.

[8] Ibid., para. 293.

[9] Ibid., para. 345.

[10] Ibid., para. 369.

[11] Ibid., *Fiftieth Session, Supplement No. 17* (A/50/17), paras. 401-404; ibid., *Fifty-first Session, Supplement No. 17* (A/51/17), paras. 238-243; ibid., *Fifty-second Session, Supplement No. 17* and corrigendum (A/52/17 and Corr. 1), paras. 257-259; ibid., *Fifty-third Session, Supplement No. 17* (A/53/17), paras. 232-235; ibid., *Fifty-fourth Session, Supplement No. 17* (A/54/17), paras. 331-332; and ibid., *Fifty-fifth Session, Supplement No. 17* (A/55/17), paras 410-412.

[12] Ibid., *Fifty-sixth Session, Supplement No 17*, (A/56/17), paras. 370-375.

[13] Ibid., *Forty-third Session, Supplement No. 17* (A/43/17), paras. 98-109.

[14] Ibid., *Fifty-sixth Session, Supplement No. 17*, (A/56/17), paras. 386-395.

[15] Ibid., para. 395.